

1 ROBERT W. FERGUSON
2 Attorney General
3 COLLEEN M. MELODY
4 PATRICIO A. MARQUEZ
5 Assistant Attorneys General
6 Civil Rights Unit
7 800 Fifth Avenue, Suite 2000
8 Seattle, WA 98104
9 206-464-7744

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12 **UNITED STATES DISTRICT COURT**
13 **EASTERN DISTRICT OF WASHINGTON**

14 STATE OF WASHINGTON,

15 Plaintiff,

16 v.

17 HORNING BROTHERS,
18 L.L.C., and HERMILO CRUZ,
19 in his individual capacity and
20 as a member of the marital
21 community of HERMILO
22 CRUZ and CLAUDIA
23 SANCHEZ,

24 Defendants.

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26 SOCORRO DIAZ SILVAS,
27 ROXANA RODRIGUEZ DE
28 ALFARO, YESICA
29 CABRERA NAVARRO,
30 YASMIN CABRERA
31 NAVARRO, and SAMANTHA
32 MENDOZA,

33 Plaintiffs-Intervenors,

34 v.

35 HORNING BROTHERS,
36 L.L.C.,

37 Defendant.

NO. 2:17-CV-0149-TOR

STIPULATED
CONFIDENTIALITY
AGREEMENT AND
PROTECTIVE ORDER

1 This is a joint agreement between: the State of Washington; Plaintiffs-
2 Intervenor Socorro Diaz Silvas, Roxana Rodriguez de Alfaro, Yesica Cabrera
3 Navarro, Yasmin Cabrera Navarro, and Samantha Mendoza; Defendant Horning
4 Brothers, L.L.C.; and Defendant Hermilo Cruz (“the parties”). The parties expect
5 that disclosure of documents in this case may involve the exchange of
6 confidential information, as identified herein, that is covered by the scope of
7 Federal Rule of Civil Procedure 26(c).
8

9 Accordingly, the parties stipulate and agree to, and the Court finds good
10 cause for, entry of this Confidentiality Agreement and Protective Order pursuant
11 to Federal Rule of Civil Procedure 26(c).
12

13 It is hereby ordered that:
14

15 **A. Designation of Confidential Information**
16

- 17 1. “Confidential Information” refers to any record, document, tangible
18 thing, discovery response, testimony, information, or other material
19 disclosed or to be disclosed through formal or informal discovery or
20 otherwise in the course of this litigation that contains: physical and
21 mental health information; personal and business financial and tax
22 information; immigration information or status; home address, home
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1 phone number, cell phone number, or email address information;
2 passport numbers, drivers' license numbers, resident identification
3 numbers, social security numbers, or alien numbers; and birthdates.
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5 2. Any party may designate any record, document, tangible thing,
6 discovery response, testimony, information, or other material as
7 confidential. All documents, tangible things, discovery responses,
8 testimony information, or other materials containing confidential
9 information pursuant to this Order shall be marked
10

11 "CONFIDENTIAL." Such designation shall, without more, subject the
12 information produced or provided under such designation to the
13 provisions of this Confidentiality Agreement and Protective Order.
14

15 3. Counsel for any party may designate deposition testimony or part of
16 any deposition testimony as confidential by advising the court reporter
17 and counsel of such designation during the course of the deposition.
18

19 4. Confidential information includes all material designated confidential
20 pursuant to the terms of this Order, as well as summaries and
21 compilations derived from such confidential material, including but not
22 limited to charts, tables, models, and textual summaries, to the extent
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1 that the material retains restricted information as defined by Paragraph
2 A.1. above (i.e. “Confidential Information”).
3

4 5. Inadvertent failure to designate a document as confidential may be
5 corrected by supplemental written notice given as soon as practicable.
6

7 6. The parties must have a good-faith basis in fact and in law to designate
8 material as confidential.

9 7. If any party objects to the designation of any information as
10 confidential, that party shall confer with the party designating the
11 information as confidential in an effort to resolve any dispute. If the
12 parties are unable to resolve such dispute, the party designating the
13 material as confidential may move to have the Court declare the
14 contested information confidential.
15

16 8. If non-confidential information is contained in or otherwise derived
17 from confidential materials, any portion that consists solely of non-
18 confidential information shall not be confidential for purposes of this
19 Order.
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22 **B. Treatment of Confidential Information**

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24 1. In any judicial proceeding in which confidential information may
25 become part of a written submission to the Court, the party making the
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1 submission will provide reasonable notice of the submission to
2 opposing counsel so that the parties may confer regarding removing the
3 designation, redacting the document, or so that opposing counsel can
4 seek, if necessary, an order from the Court protecting the confidentiality
5 of the document—including an order that the document be redacted or
6 filed under seal—subject to the Court’s review on a document-by-
7 document basis.
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10 2. If confidential testimony or information is filed under seal, the entire
11 filing or submission containing the confidential information shall be
12 made under seal.
13

14 3. Except as provided herein, no party having access to confidential
15 information shall make public disclosures of that material without
16 further order of this Court. Information designated as confidential shall
17 be held in the strictest confidence and maintained securely.
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20 4. If a party learns that, by inadvertence or otherwise, it has disclosed
21 confidential material to any person or in any circumstance not
22 authorized by this Order, that party must immediately (1) notify the
23 other parties in writing of the unauthorized disclosure, (2) inform the
24 person or persons to whom unauthorized disclosures were made of all
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1 the terms of this Order, (3) use best efforts to retrieve all copies of the
2 confidential material, and (4) request that such person execute the
3 Acknowledgment of Confidentiality Agreement and Protective Order,
4 appended hereto as Attachment A.
5

6 5. Upon conclusion of this case, including any appeals, all originals and
7 copies of confidential materials, including all summaries thereof, shall
8 be returned to the producing party's counsel or representative or
9 destroyed, unless (1) otherwise ordered by the Court for good cause
10 shown, (2) the return or destruction of such materials is prohibited by
11 law, or (3) the document has been filed with the Court in unredacted
12 form or used as an exhibit.
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16 6. Notwithstanding anything to the contrary herein, the parties to this
17 action shall have no obligation under this Order with respect to
18 information that (1) is or becomes publicly available (except by
19 unauthorized disclosure), or (2) is received from a third-party who is
20 rightfully in possession of such information and who has the right to
21 disclose it.
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1 **C. Access to Confidential Information**

2 1. Access to confidential information shall be limited to individuals who
3 must handle such information for purposes of this litigation (“qualified
4 persons”). Individuals authorized to handle confidential information
5 include:
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- 7 a. The Court and its officers;
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9 b. Court reporters, their assistants, and administrative staff;
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11 c. The parties and their counsel, including counsel’s paralegals,
12 administrative staff, or contractors;
13
14 d. Any mediator or other third-party neutral used to attempt to resolve
15 this litigation;
16
17 e. Witnesses, potential witnesses, and their counsel to the extent
18 necessary in preparation for or during the course of depositions,
19 hearings, interviews, or trial in this action;
20
21 f. Experts and consultants, including their employees and
22 administrative staff, who are employed, retained, or otherwise
23 consulted by counsel or any party for the purpose of providing
24 information or opinions to assist in this litigation.
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1 2. All individuals who fall within categories C(1)(e)–(f) above who
2 review confidential information must first execute the
3
4 Acknowledgment of Confidentiality Agreement and Protective Order,
5 appended hereto as Attachment A, stating that they will abide by the
6 terms of this Order. Copies of all Acknowledgments of Confidentiality
7 Agreement and Protective Order executed pursuant to this paragraph
8 shall be kept by counsel who provided the confidential information for
9 review. For witnesses required to be disclosed by the Federal Rules of
10 Civil Procedure, copies of the executed Acknowledgment of
11 Confidentiality Agreement and Protective Order shall be disclosed to
12 opposing counsel not later than the disclosure date of the witness list for
13 trial.
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17 **D. Other Litigation**

18 1. If a party in receipt of confidential information (“receiving party”) is
19 served with a discovery request, subpoena, civil investigative demand,
20 or an order from any court or other authority that would compel
21 disclosure of any information or items bearing the designation
22 “CONFIDENTIAL,” the receiving party shall so notify the party that
23 designated the material confidential (“designating party”) in writing,
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1 including a copy of the discovery request, subpoena, civil investigative
2 demand, or order as soon as reasonably practicable.
3

4 2. The receiving party must immediately inform the party who caused the
5 discovery request, subpoena, civil investigative demand, or order to
6 issue in the other litigation that some or all of responsive materials is
7 the subject of this Confidentiality Agreement and Protective Order.
8 The receiving party must deliver a copy of this Order promptly to the
9 party in the other action that issued the discovery request, subpoena,
10 civil investigative demand, or order to issue.
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13 3. If the designating party is unable to secure the voluntary withdrawal of
14 the discovery request, subpoena, civil investigative demand, or order
15 that would compel disclosure of any information or items designated
16 confidential, the designating party may move for the issuance of an
17 order to quash, strike, or modify the discovery request, subpoena, civil
18 investigative demand, or order. The burden and expense shall be on the
19 designating party to obtain an order staying production. In the absence
20 of an order staying, limiting, or barring production, the Federal Rules of
21 Civil Procedure regarding discovery remain in effect.
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1 **E. Scope and Enforcement of Order**

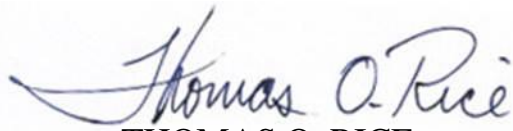
- 2 1. Except as otherwise provided herein, the restrictions and obligations
- 3 provided in this Order shall not terminate upon the conclusion of this
- 4 lawsuit but shall continue subject to order of this Court.
- 5
- 6 2. Entering into, agreeing to, and/or complying with the terms of this
- 7 Order shall not:
- 8
- 9 a. Operate as an admission that any particular discovery material
- 10 constitutes, contains, or reflects confidential matter;
- 11
- 12 b. Operate as a requirement that any attorney produce his or her own
- 13 attorney work product;
- 14
- 15 c. Prejudice the rights of any party to object to the production of
- 16 documents or information it considers non-discoverable, or to seek a
- 17 Court determination whether particular discovery materials should
- 18 be protected;
- 19
- 20 d. Prejudice a party from seeking modification or rescission of this
- 21 Confidentiality Agreement and Protective Order; or
- 22
- 23 e. Limit a party's right to seek additional protective orders as may
- 24 become necessary due to a change in circumstances or for other
- 25 good cause shown.
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1 3. Any party may petition the Court concerning a violation of this Order
2 and request any available remedies, including, but not limited to,
3 contempt proceedings.
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5 Dated September 29, 2017.



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THOMAS O. RICE
Chief United States District Judge

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I, _____ [print full name], of
_____ [print or type full address],

I agree to comply with and to be bound by all the terms of this Confidentiality Agreement and Protective Order, and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I promise that I will not disclose in any manner any information or item that is subject to this Confidentiality Agreement and Protective Order to any person or entity except in strict compliance with the provisions of the Confidentiality Agreement and Protective Order.

[PROPOSED] STIPULATED
CONFIDENTIALITY AGREEMENT AND
PROTECTIVE ORDER

1 Confidentiality Agreement and Protective Order, even if such enforcement
2 proceedings occur after termination of this action.
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4

5 Date: _____

6
7
8 City and State where sworn and signed: _____

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10 Printed name: _____

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13 Signature: _____
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